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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,688	03/11/2004	James M. Alkove	MS1-2008US	6286
22801	7590	06/16/2008		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER GELAGAY, SHEWAYE	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 06/16/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/798,688

**Applicant(s)**

ALKOVE ET AL.

**Examiner**

SHEWAYE GELAGAY

**Art Unit**

2137

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 43-46 is/are pending in the application.
- 4a) Of the above claim(s) 10-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 43-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 5/5/06, 2/13/06, 1/27/06, 3/11/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This office action is in response to Applicant's amendment filed on March 27, 2008. Applicant's election without traverse of Group I (claims 1-9 and 43-46) in the reply filed on 3/27/08 is acknowledged. Claims 1-9 and 43-46 are pending.

### ***Drawings***

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 8 recites "one or more computer-readable media," however, the independent claim (claim 1) in which claim 8 depends on does not recite "one or more computer-readable media." Appropriate correction is required.

4. Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 recites "a computing system," however, the claims (claims 1 and 8) in which claim 9 depends on do not recite "a computing system" Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 8 recites "one or more computer-readable media," however, applicant has not defined "computer-readable media." A media can be construed to be a signal and does not fall within one of the four category classes set forth in 35 U.S.C. 101. Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory.

5. Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 9 recites a system claim without any structural component and consists solely of language that is implemented with only

software. Claim 9 does not provide any functional interrelationship to any software and hardware structural components to provide certain function that is processed by a computer.

6. Claims 43-44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 43 recites a system claim without any structural component and consists solely of language that is implemented with only software. Claims 43-44 do not provide any functional interrelationship to any software and hardware structural components to provide certain function that is processed by a computer.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-9 and 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Hardware Platform for Next-Generation Secure Computing Base" December 2001 (hereinafter NGSCB) in view of Davis US 5,825,879.

9. As per claims 1, 8-9 and 43:

NGSCB teaches a method comprising: establishing a secure communication channel between a media playback application and a component downstream from the

media playback application; (pages 6-7, Security Support Component; pages 8-9, Secure Video Hardware) and

using the secure communication channel to at least enable the media playback application to instruct the downstream component to enable one or more of a number of different types of content protection. (pages 6-7, Security Support Component; pages 8-9, Secure Video Hardware)

NGSCB does not explicitly disclose enable one or more of a number of different types of content protection technologies. Davis in analogous art, however, teaches enable one or more of a number of different types of content protection technologies. (col. 4, lines 21-55; col. 5, line 18-col. 6, line 50) Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the system disclosed by NGSCB with Davis in order to receive encrypted digital content and convert it for a monitor while preventing unauthorized access to the intermediate unencrypted digital data. (Abstract, Davis)

As per claims 2 and 45-46:

The combination of NGSCB and Davis teaches all the subject matter as discussed above. In addition, Davis further teaches using the secure communication channel to enable the media playback application to instruct the downstream component as to how to apply one or more of the different types of content protection technologies. (col. 4, lines 21-55; col. 5, line 18-col. 6, line 50)

As per claims 3 and 44:

The combination of NGSCB and Davis teaches all the subject matter as discussed above. In addition, NGSCB further teaches wherein the downstream component comprises a software component. (page 6, Security Support Component; pages 8-9, Secure Video Hardware)

As per claim 4:

The combination of NGSCB and Davis teaches all the subject matter as discussed above. In addition, NGSCB further teaches using the secure communication channel to enable the media playback application to request status information from the downstream component. (pages 8-9, Secure Video Hardware)

As per claims 5 and 7:

The combination of NGSCB and Davis teaches all the subject matter as discussed above. In addition, NGSCB further teaches using the secure communication channel to enable the media playback application to request status information from the downstream component; (pages 8-9, Secure Video Hardware) and using the secure communication channel to receive status information from the downstream component. (pages 8-9, Secure Video Hardware)

As per claim 6:

The combination of NGSCB and Davis teaches all the subject matter as discussed above. In addition, NGSCB further teaches using the secure communication channel to enable the media playback application to request status information from the downstream component; and using the secure communication channel to receive status information from the downstream component, wherein the status information sent by the

media playback application. (pages 8-9, Secure Video Hardware) Both references do not explicitly teach the status information pertains to instructions that were previously sent by the media playback application. It would have been obvious to one ordinary skill in the art to use the providing trustworthy status in the system of NGSCB to the status information pertains to instructions that were previously sent by the media playback application, to improve the system in communicating a status for request for establishing a secure communication between the devices.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

11. Claims 1-9 and 43-46 are rejected under 35 U.S.C. 102(e) as being anticipated by England et al. US 7,203,310 (hereinafter England).

As per claims 1 and 43:

England teaches a method comprising:

establishing a secure communication channel between a media playback application and a component downstream from the media playback application; (col. 11, line 11-col. 14, line 65) and



using the secure communication channel to at least enable the media playback application to instruct the downstream component to enable one or more of a number of different types of content protection technologies to protect media content that is provided over a physical connector. (col. 11, line 11-col. 14, line 65)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWAYE GELAGAY whose telephone number is (571)272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. G./  
Examiner, Art Unit 2137

Application/Control Number: 10/798,688

Page 9

Art Unit: 2137

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2137